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In Re Application of
FLISHER et al.
Application No.: 10/791,013
PCT No.: PCT/EP01/00391
Int. Filing Date: 15 January 2001
Priority Date: 28 January 2000
Attorney Docket No.: GT/W-21923/A/AC 533/PCT
For: POLYMERISATION PROCESS

DECISION ON
PETITION

This is a decision on applicant's "PETITION FOR SUSPENSION OF RULES UNDER 37 CFR 1.183" filed in the United States Patent and Trademark Office (USPTO) on 06 October 2004.

BACKGROUND

On 15 January 2001, applicant filed international application No. PCT/EP01/00391 which claimed a priority date of 28 January 2000 and which designated the United States. Thereafter, on 27 July 2004, before the expiration of the thirty month period, applicant filed, *inter alia*, a transmittal letter for entry into the national stage and the basic national stage filing fee. On 02 August 2001, applicant sent an executed declaration for filing.

On 11 October 2001, a Notification of Acceptance Under 35 U.S.C. 371 and 37 CFR 1.495 (Form PCT/DO/EO/903) indicating a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 02 August 2001 and incorrectly indicating a date of receipt of all 35 U.S.C. requirements of 27 July 2001.

Applicant urges that the Form 903 be corrected to indicate a filing date of 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) filing date of 27 July 2001.

DISCUSSION

A review of the application file indicates that the executed combined declaration and power of attorney, in compliance with 37 CFR 1.497(a) and (b), was deposited with the USPTO on 02 August 2001. A review of the application in the USPTO's Image File Wrapper (IFW) file confirms that the executed German language declaration was submitted on 24 March 2004, which does not comply with 37 CFR 1.497(a) & (b). The Notification of Acceptance mailed on 26 August 2004 was erroneously issued.

The evidence of record is sufficient to establish with reasonable certainty that the combined declaration and power of attorney was filed with the USPTO on 02 September 2004. A

filing date under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) of 02 September 2004 will be accorded application 10/490,443.

The actual filing date of the present application is considered to be the international filing date, 15 January 2001. The application file indicates that applicant completed the requirements set forth in 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) on 02 August 2001. The Notification of Acceptance (FORM PCT/DO/EO/903) mailed on 11 October 2001 indicated the proper 35 U.S.C. 371(c) (1), (c)(2) and (c)(4) date. (Note MPEP section 1893.03(b).)

CONCLUSION

For the reasons set forth above, applicant's request to correct the Notification of Acceptance to reflect the 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 27 July 2001 is **REFUSED**. A new filing receipt will not be issued.

The Notification of Acceptance (Form PCT/DO/EO/903) mailed on 11 October 2001 correctly indicates a 35 U.S.C. 371(c) (1), (c)(2) and (c)(4) date of 02 August 2001. The date of receipt of all 35 U.S.C. requirements of 27 July 2001 is incorrect.

A copy of this decision will be filed and scanned into application no. 09/890,129.



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